IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2377 of 1996

to

FIRST APPEALNo 2378 of 1996

with

CROSS OBJECTION Nos 257 and 258 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

OIL & NATURAL GAS COMMISSION

Versus

DECEASED RABARI BABABHAI KUNSIBHAI

Appearance:

1. First Appeal No. 2377 of 1996

MR AJAY R MEHTA for Petitioner No. 1

NOTICE SERVED for Respondents No. 1,1/3

MR SAURABH G AMIN for Respondents No. 1/1-1/2, 1/3A-1/3D,2/1-2/4,3/1-4

MR AD OZA for Respondents No. 5-6

2. CROSS OBJECTION No. 257 & 258 of 1998

MR MB GANDHI for Petitioners

2. First Appeal No.2378 of 1996

MR AJAY R MEHTA for the appellant.

MR SAURABH G AMIN for respodnent Nos. 1 to 5

MR AD OZA for respondent Nos.6 & 7.

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 11/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Both these appeals under section 54 of the Land Acquisition Act, 1894 (Act) and Cross Objections arise out of the common judgment and award dated 22.12.95 recorded by the learned Assistant District Judge in Land Acquisition Reference Case No.496 and 497 of 1990, and raise identical questions. Therefore, they are being disposed of by this common judgment.

We have heard the learned advocates appearing for the parties. We have, also, dispassionately, examined the record and the evidence relied on by the both the sides. A conspectus of material facts giving rise to the appeals be, briefly, articulated at this juncture.

The respondents' lands situated at village Dhanaj, Taluka Kalol, Dist: Mehsana, came to be acquired for the purpose of ONGC storage tank, by virtue of notification under section 4(1) of the Act, which came to be published on 31.7.86 followed by notification under section 6(1) on 24.12.86. Follow up procedure of notice under section 9 of the Act had also been issued to the respondents-claimants and after hearing the claimants and the concerned parties, the Land Acquisition Officer offered, by passing award dated 6.5.89, compensation of Rs.2 per sq. mtr. against the claim of Rs.200/- per sq. mtr. to the claimants. Obviously, therefore, the reference was made by the Collector at the instance of the claimants to the Civil Court under section 18 of the Act and in the references, the Court fixed compensation at the rate of Rs.90 per sq. mtr. with other statutory benefits. In short, the market value fixed by the Land Acquisition Officer at the rate of Rs.2 per sq. mtr.

came to be enhanced to Rs.90/- per sq. mtr. by the Civil Court under section 18 of the Act. The Acquiring Body, ONGC, therefore, has filed these two appeals under section 54 of the Act, questioning its legality and validity, in so far as the fixity of market price is concerned.

The impugned award of the reference Court is founded upon an award of the Court in LAR No.312/90, which came to be produced before the Reference Court, at Ex.20, at the instance of the claimants. It will be, interesting to note that comparable award Ex.20 was carried further in First Appeal No.7317/95 to 7342/95 before this Court and by the judgment and order dated 12.10.98, this Court had fixed the market price at the rate of Rs.80/- per sq. mtr. In other words, the market price fixed by the reference Court came to be reduced to Rs.80/- by this Court, by virtue of the aforesaid decision. It will be, further, interesting to state that the decision of this Court was further carried by both the parties by filing Special Leave Petitions before the Hon'ble Apex Court, unsuccessfully, as the SLPs came to be rejected, by the judgment and order dated 3.11.99. Thus, the market price fixed by this Court at the rate of Rs.80 per sq. mtr. came to be confirmed by the Hon'ble Supreme Court.

The respondents, original-claimants have, also, filed Cross Objections as they are not satisfied with the amount of market price by the reference Court. It has been contended on behalf the respondents-original claimants that the amount of Rs.90/- awarded by the Reference Court is required to be enhanced.

In our opinion, both these appeals are, squarely, covered by the decision of this Court in First Appeals Nos.7317/95 and others dated 12.10.98 as the notification date is very close i.e. one or two months and the purpose and other aspects are common. The lands acquired in both the appeals are in close proximity and share common boundary and, therefore, the market value determined by this Court in the aforesaid decision, at the rate of Rs.80 per. mtr. will be the basis for awarding the amount of compensation under section 23 of the Act. It would not, therefore, detain us any longer for examining other aspects, meticulously or by way of deeper probe. Accordingly, the market price of the land in question in both the appeals is required to be fixed at the rate of Rs.80/- per sq. mtr. against the rate of Rs.90/- per sq. mtr. fixed and determined by the reference Court and both the appeals are, therefore, required to be, partly, allowed. The Cross Objections

are required to be dismissed.

In the result, the market value in respect of the acquired lands involved in both these appeals is determined and fixed at rate of Rs.80 per sq. mtr. instead of Rs.90/- fixed by the reference Court. The appeals are accordingly, partly allowed to that extent. The respondent-claimants shall be entitled to all the statutory available benefits. Cross Objections shall stand dismissed. Parties are left to bear their own costs.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)
(vjn)